THE HON'BLE SRI JUSTICE C.V. RAMULU

Wednesday, the 18th day of July,2007

W.P.No.24129 of 1998

Between:-

The Management of Hotel
Rajdoot, 6-1-91/19,
Secretariat Road,
Hyderabad rep. By its
Partner P. Ravi … Petitioner

and

The Presiding Officer,
Labour Court-I,
Chandra Vihar, Hyderabad
and another … Respondents

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ORAL ORDER:

This Writ Petition is filed being aggrieved by an Award dated 31-3-1998 made in I.D.No.103 of 1995 on the file of Labour Court-I, Hyderabad.

It appears, the services of the 2nd respondent, while working as a Cleaner in the petitioner's Hotel, were terminated with effect from 10-8-1995. According to the petitioner-Management, 2nd respondent got issued a legal notice dated 24-8-1995 stating that his services were terminated without any notice and no compensation was paid and, therefore, he is entitled for reinstatement with continuity of service etc. It is the case of the Management that a reply notice was sent on 28-8-1995 categorically stating that the 2nd respondent himself absented from duty and he left the service himself without any intimation or leave and he was asked to come personally to settle the matter across the table. Instead of reporting to duty and settling the matter, 2nd respondent approached the Labour Court. Before the Labour Court, the workman examined himself as W.W.1 and marked documents-Exs.W1 to W8. On behalf of the Management, M.W.1 was examined, but no documents were marked. After a detailed consideration of both oral and documentary evidence, the Labour Court came to the conclusion that if the contention of the Management is believable and if the behaviour of the workman was incorrigible, the Management ought to have initiated disciplinary proceedings and when the same was not done, the contention of the Management

cannot be believed and under those circumstances, the act of the Management is an act of retrenchment. Further, there was no compliance of Section 25-F of the Industrial Disputes Act,1947 (for short 'the Act') and the termination is void *ab initio*. The Labour Court, therefore, directed the Management to reinstate the workman into service with all attendant benefits and full back wages.

It is an admitted fact that there was no enquiry conducted or initiated against the workman, who purported to have absented himself from duty and his behaviour was cantankerous. Further, the mandatory provisions of Section 25-F of the Act were not followed before the services of the respondent-workman were terminated. Therefore, the findings reached by the Labour Court cannot be said to be either arbitrary or illegal.

While admitting the Writ Petition, this Court granted interim stay on 19-11-1998, subject to the condition of the petitioner-Management depositing half of the back wages. Learned counsel for the petitioner now states that the said interim order has already been complied with and the respondent-workman has also been reinstated into service in pursuance of the impugned Award of the Labour Court. But the fact remains that the services of the respondent-workman were sought to be terminated on the ground that he had absented himself from duties and his behaviour was cantankerous. For this, the Management ought to have conducted detailed enquiry and could have taken appropriate decision in the matter. However, now it is about 12 years since the workman was removed from service. It may not be appropriate to direct the Management to conduct enquiry into the misconduct, if any, at this length of time. It is suffice to deny 50% of back wages instead of leaving liberty to the Management to conduct fresh enquiry into such matters.

Under the above circumstances, the Award passed by the Labour Court is liable to be modified and is accordingly modified to the

effect that the respondent-workman is entitled for reinstatement with all attendant benefits, but with only 50% of the back wages.

With the above modification of the impugned Award, the Writ Petition is disposed of. No order as to costs.

18-7-2007

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